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Rene Glaise et al.

### REMARKS

Claims 1-15 are pending in the application with the present amendments, including new claim 15. Claim 14 is amended herein in compliance with the USPTO guideline on claims to computer-readable recording media. Claims 5 and 6 are amended herein to place them in better form.

In the Office Action, all claims were rejected under 35 U.S.C. §103(a) as being obvious over the article by Wang et al. entitled "A Distributed Switch Architecture . . ." (Wang) in view of U.S. Patent No. 7,142,555 to Wang et al. (Wang '555), and further in view of U.S. Patent No. 5,355,372 to Sengupta ("Sengupta") and U.S. Patent No. 6,757,246 to Alasti et al. ("Alasti"). For the reasons set forth below, applicants respectfully submit that the claims as amended herein are fully distinguished from the art cited in the Office Action to reject the claims.

Claim 1, amended herein, now recites that not only the number of data packets waiting to be processed are computed for each individual plane, but that the maximum of the numbers of waiting data packets is determined from among all the switching planes and the minimum of the numbers from among all the switching planes. Then, a range is determined as a difference between the maximum and the minimum numbers. The range thus determined then is compared with a predetermined threshold and is signaled when the predetermined threshold is exceeded.

The passages of the references cited in the Office Action in combination to reject claim 1 do not teach this feature of claim 1. The article by Wang (p. 355, Section F, 2nd paragraph) merely describes an algorithm in which the minimum queue length for all of the queues is determined. However, the article by Wang does not teach determining a *maximum* of the numbers of waiting data packets from among all the switching planes and the minimum of the numbers from among all the switching planes to then determine a range as a *difference between the maximum and minimum numbers*. Neither does Wang teach comparing such *range* to a threshold and signaling when such threshold is exceeded.

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None of the passages of the other cited references provide the teachings which the article by Wang lacks with respect to the invention recited in claim 1. The cited passage of Wang '555 at col. 11, ln. 60 to col. 12, ln. 2 fails to teach determining a range as a difference between the maximum and minimum numbers of data packets per switching plane that are waiting to be processed and then comparing such range to a predetermined threshold. Neither Sengupta nor Alasti is cited as teaching this feature of claim 1.

Moreover, the cited combination of references neither teaches nor suggests the method as further recited in claim 15 in which the adapting step is defined as including shifting data packets away from the determined switching plane to others of the switching planes.

As all other claims depend from claim 1, applicants respectfully submit that all claims are allowable over the art cited to reject them in the Office Action.

Support for the present amendments is provided, *inter alia*, at paragraph [0036], page 4, lns. 6 through 10.

In view of the present amendments and remarks, it is believed that the application is now in condition for allowance. If, for any reason, the examiner does not believe that such action can be taken at this time, it is requested that he telephone the undersigned at the number indicated below to discuss any issues that remain.

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It is believed that no fees are required upon filing this Amendment. However, if any fees are required, authorization is given to debit the Deposit Account No. 09-0458 of the Assignee International Business Machines Corporation. If there is an overpayment, please credit the same account.

Respectfully submitted,  
**Rene Glaise et al.**

By: 

Daryl K. Neff, Attorney  
Registration No. ~~38,253~~  
Telephone: (973) 316-2612

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